



***Joint Submission by the Australia Peru Chamber of Commerce Inc. (APCCI) -
Australia and the Australia Peru Chamber of Commerce (APCCI) – Peru***

To the Joint Standing Committee on Treaties

Inquiry into the Peru-Australia Free Trade Agreement

November 2018

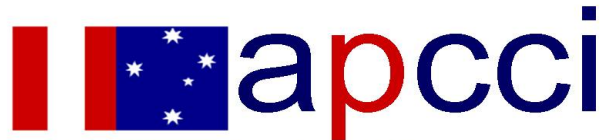
APCCI Australia and APCCI Peru acknowledge and highly appreciate the opportunity to present a submission to the Joint Standing Committee on Treaties into the inquiry to review the following aspects of the Peru-Australia Free Trade Agreement, PAFTA:

- **Ongoing concerns over the increasing complexity created by the number of trade agreements, particularly multiple agreements with the same partner.**

In a new globalised international scenario, the signature of a bilateral and multilateral agreement involving the same country reflects the dynamism, positive evolution, mutual interest and convergence in diverse areas between two countries. The Peru-Australia Free Trade Agreement, PAFTA, reflects the fact that we share similar values, similar world view of the importance of free quality trade and open markets as we are open and export oriented market economies with private sectors willing to work together in complementarity and collaboration through the integration of our economies.

This has been the case and will continue to happen for Peru and Australia with their Regional neighbours and strong partners. Peru has signed bilateral and multilateral regional agreements including Mercosur, Pacific Alliance, CPTPP, among others, and together we have 17 FTA's in force and others in process of ratification. We recognise the same happens for Australia with countries in the Indo Pacific Region. Therefore, two or more agreements are a strong sign of closer economic relations.

PAFTA is a last generation wide and comprehensive agreement that creates unprecedented opportunities for stronger relationships and deep commercial integration between Australia and Peru, and through Peru to Latin America, being Peru a hub to the Region. Its content (29 chapters and Annexures) gives additional preferential and improved access to Australian



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and Peruvian businesses that the ones that were possible to negotiate in a multilateral agreement as the CPTPP and we recognize that it constitutes a CPTPP Plus agreement.

We'd like to highlight the fact that its negotiation and signature was possible due to the strong involvement of the private sector, with more than 50 representatives of the private sector belonging to more than 10 industry associations. We're proud of a thriving private sector that in partnership with the government is allowing Peru to be one of the fastest growing economies in the world.

PAFTA gives access to Australian businesses to sensitive agricultural Peruvian products as dairy, grains and sugar, something that didn't happen in the CPTPP as understandably Peru was not able to give access to those products in a multilateral arena. This is only an example of how PAFTA provides more benefits to the Australian and Peruvian economies in the short, medium and long term than any other multilateral agreement.

- **The specific inclusion and operation of the Investor-State Dispute Settlement provisions in recently concluded trade agreements.**

As expression of a historical commitment of Australia and Peru to promote and protect Australian investment, which has traditionally been important part of the bilateral commercial relation, 23 years ago, both countries signed a bilateral Investment Promotion and Protection Agreement (IPPA).

We acknowledge the fact that Australia's commercial presence in Peru has increased significantly with nearly 90 Australian companies currently present in Peru and an estimated Australian investment of around \$5 billion dollars, being Australia the fourth largest investor in Peru's mining and energy sector.

Nevertheless, currently Australia's investment relationship with Peru remains governed by the IPPA signed in 1995, that contains an ISDS mechanism with no explicit safeguards to protect both States.

The PAFTA investment chapter replaces the IPPA agreement with modern investment provisions and robust safeguards including areas as public health and environment.

Those safeguards include an explicit recognition that the State Parties have an inherent right to regulate for public welfare objectives, such as public health and the environment. This has been expressly mentioned and is inherent in the spirit of the agreement.

It's important to mention, as has been highlighted by DFAT, that in PAFTA dispute settlement is a State-to-State process. The Investor-State Dispute Settlement provisions



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only apply to breaches under Section A of the Investment Chapter (Article 8.20). Meaning that ISDS Provisions are essentially limited to providing certainty and protection to investors in cases such as expropriation.

An Investor would never be entitled to use ISDS provisions in matters of public interest involving public health and environment.

In addition, ISDS provisions will encourage two-way investment and therefore will impact positively in both economies' growth and employment creation.

APCCI Australia and APCCI Peru - representing together more than hundred Australian and Peruvian businesses - strongly support the ratification of the Peru-Australia Free Trade Agreement, PAFTA, as an entire and whole instrument for deep economic integration.

The Peru Australia Free Trade Agreement, PAFTA, is a positive expression of the mutual agreement to diversify economic relations for both countries and will open trade and strong economic integration with Peru and with Latin America as a Region. The ratification of PAFTA will consolidate a mutually beneficial long-term partnership and will start a new chapter in the international commercial relations of Australia with an emerging country and Region.

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